

THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MISTIANN LAPO, an individual,  
  
Plaintiff,

v.

UNIFORM FACTORY OUTLET OF  
WASHINGTON L.L.C. d/b/a UNIFORM  
DESTINATION, *et al.*,  
  
Defendants.

Case No. 2:22-cv-01013-JHC

***AMENDED PROTECTIVE ORDER***

**NOTE FOR MOTION CALENDAR:  
Wednesday, August 31, 2022**

**1. PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

1           2. “CONFIDENTIAL” MATERIAL

2           “Confidential” material shall include the following documents and tangible things produced or  
3 otherwise exchanged:

4           (a) medical records and bills, and other healthcare records and information pertaining to any  
5 party or non-party that would be subject to HIPAA (Health Insurance Portability and  
6 Accountability Act of 1996) if in possession of a covered entity;

7           (b) the parties’ financial, banking, or business information not subject to public disclosure,  
8 including payroll records and other records such as a party or non-party’s bank account,  
9 tax records, and financial information reflecting wealth or earnings;

10          (c) employee files and records pertaining to any party or non-party containing or related to  
11 information described in subsections (a) and (b), above;

12          (d) private business information that would be considered a trade secret;

13          (e) information otherwise provided protection from disclosure under law.

14           3. SCOPE

15          The protections conferred by this agreement cover not only confidential material (as defined  
16 above), but also (1) any information copied or extracted from confidential material; (2) all copies,  
17 excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations,  
18 or presentations by parties or their counsel that might reveal confidential material.

19          However, the protections conferred by this agreement do not cover information that is in the  
20 public domain or becomes part of the public domain through trial or otherwise.

21           4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

22           4.1 Basic Principles. A receiving party may use confidential material that is disclosed or  
23 produced by another party or by a non-party in connection with this case only for prosecuting,

1 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the  
2 categories of persons and under the conditions described in this agreement. Confidential material must  
3 be stored and maintained by a receiving party at a location and in a secure manner that ensures that  
4 access is limited to the persons authorized under this agreement.

5 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the  
6 court or permitted in writing by the designating party, a receiving party may disclose any confidential  
7 material only to:

8 (a) the receiving party’s counsel of record in this action, as well as employees of counsel to  
9 whom it is reasonably necessary to disclose the information for this litigation;

10 (b) the officers, directors, and employees (including in house counsel) of the receiving party  
11 to whom disclosure is reasonably necessary for this litigation, unless the parties agree that a particular  
12 document or material produced is for Attorney’s Eyes Only and is so designated;

13 (c) experts and consultants to whom disclosure is reasonably necessary for this litigation and  
14 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

15 (d) the court, court personnel, and court reporters and their staff;

16 (e) copy or imaging services retained by counsel to assist in the duplication of confidential  
17 material, provided that counsel for the party retaining the copy or imaging service instructs the service  
18 not to disclose any confidential material to third parties and to immediately return all originals and  
19 copies of any confidential material;

20 (f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary  
21 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless  
22 otherwise agreed by the designating party or ordered by the court. Pages of transcribed deposition  
23

1 testimony or exhibits to depositions that reveal confidential material must be separately bound by the  
 2 court reporter and may not be disclosed to anyone except as permitted under this agreement;

3 (g) the author or recipient of a document containing the information or a custodian or other  
 4 person who otherwise possessed or knew the information.

5 4.3 Filing Confidential Material. Before filing confidential material or discussing or  
 6 referencing such material in court filings, the filing party shall confer with the designating party, in  
 7 accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will remove  
 8 the confidential designation, whether the document can be redacted, or whether a motion to seal or  
 9 stipulation and proposed order is warranted. During the meet and confer process, the designating party  
 10 must identify the basis for sealing the specific confidential information at issue, and the filing party  
 11 shall include this basis in its motion to seal, along with any objection to sealing the information at  
 12 issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards that will  
 13 be applied when a party seeks permission from the court to file material under seal. A party who seeks  
 14 to maintain the confidentiality of its information must satisfy the requirements of Local Civil Rule  
 15 5(g)(3)(B), even if it is not the party filing the motion to seal. Failure to satisfy this requirement will  
 16 result in the motion to seal being denied, in accordance with the strong presumption of public access  
 17 to the Court's files.

## 18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-  
 20 party that designates information or items for protection under this agreement must take care to limit  
 21 any such designation to specific material that qualifies under the appropriate standards. The  
 22 designating party must designate for protection only those parts of material, documents, items, or oral  
 23 or written communications that qualify, so that other portions of the material, documents, items, or

1 communications for which protection is not warranted are not swept unjustifiably within the ambit of  
2 this agreement.

3 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown  
4 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily  
5 encumber or delay the case development process or to impose unnecessary expenses and burdens on  
6 other parties) expose the designating party to sanctions.

7 If it comes to a designating party's attention that information or items that it designated for  
8 protection do not qualify for protection, the designating party must promptly notify all other parties  
9 that it is withdrawing the mistaken designation.

10 5.2 Manner and Timing of Designations. Except as otherwise provided in this agreement (see,  
11 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, disclosure or  
12 discovery material that qualifies for protection under this agreement must be clearly so designated  
13 before or when the material is disclosed or produced.

14 (a) Information in documentary form: (e.g., paper or electronic documents and deposition  
15 exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the designating  
16 party must affix the word "CONFIDENTIAL" to each page that contains confidential material. If only  
17 a portion or portions of the material on a page qualifies for protection, the producing party also must  
18 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

19 (b) Testimony given in deposition or in other pretrial proceedings: the parties and any  
20 participating non-parties must identify on the record, during the deposition or other pretrial  
21 proceeding, all protected testimony, without prejudice to their right to so designate other testimony  
22 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the  
23 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or exhibits

1 thereto, as confidential. If a party or non-party desires to protect confidential information at trial, the  
 2 issue should be addressed during the pre-trial conference.

3 (c) Other tangible items: the producing party must affix in a prominent place on the exterior of  
 4 the container or containers in which the information or item is stored the word "CONFIDENTIAL."  
 5 If only a portion or portions of the information or item warrant protection, the producing party, to the  
 6 extent practicable, shall identify the protected portion(s).

7 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate  
 8 qualified information or items does not, standing alone, waive the designating party's right to secure  
 9 protection under this agreement for such material. Upon timely correction of a designation, the  
 10 receiving party must make reasonable efforts to ensure that the material is treated in accordance with  
 11 the provisions of this agreement.

## 12 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

13 6.1 Timing of Challenges. Any party or non-party may challenge a designation of  
 14 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality  
 15 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
 16 or a significant disruption or delay of the litigation, a party does not waive its right to challenge a  
 17 confidentiality designation by electing not to mount a challenge promptly after the original designation  
 18 is disclosed.

19 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute regarding  
 20 confidential designations without court involvement. Any motion regarding confidential designations  
 21 or for a protective order must include a certification, in the motion or in a declaration or affidavit, that  
 22 the movant has engaged in a good faith meet and confer conference with other affected parties in an  
 23 effort to resolve the dispute without court action. The certification must list the date, manner, and

1 participants to the conference. A good faith effort to confer requires a face-to-face meeting or a  
2 telephone conference.

3 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court intervention,  
4 the designating party may file and serve a motion to retain confidentiality under Local Civil Rule 7  
5 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of persuasion in any such  
6 motion shall be on the designating party. Frivolous challenges, and those made for an improper  
7 purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the  
8 challenging party to sanctions. All parties shall continue to maintain the material in question as  
9 confidential until the court rules on the challenge.

10 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
11 LITIGATION

12 If a party is served with a subpoena or a court order issued in other litigation that compels  
13 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party  
14 must:

15 (a) promptly notify the designating party in writing and include a copy of the subpoena or court  
16 order;

17 (b) promptly notify in writing the party who caused the subpoena or order to issue in the other  
18 litigation that some or all of the material covered by the subpoena or order is subject to this agreement.  
19 Such notification shall include a copy of this agreement; and

20 (c) cooperate with respect to all reasonable procedures sought to be pursued by the designating  
21 party whose confidential material may be affected.

22 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL  
23

1 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential  
 2 material to any person or in any circumstance not authorized under this agreement, the receiving party  
 3 must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use  
 4 its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or  
 5 persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d)  
 6 request that such person or persons execute the “Acknowledgment and Agreement to Be Bound” that  
 7 is attached hereto as Exhibit A.

8 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
 9 MATERIAL

10 When a producing party gives notice to receiving parties that certain inadvertently produced  
 11 material is subject to a claim of privilege or other protection, the obligations of the receiving parties  
 12 are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to  
 13 modify whatever procedure may be established in an e-discovery order or agreement that provides for  
 14 production without prior privilege review. The parties agree to the entry of a non-waiver order under  
 15 Fed. R. Evid. 502(d) as set forth herein.

16 10. NON TERMINATION AND RETURN OF DOCUMENTS

17 Within 60 days after the termination of this action, including all appeals, each receiving party  
 18 must return all confidential material to the producing party, including all copies, extracts and  
 19 summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

20 Notwithstanding this provision, counsel are entitled to retain one archival copy of all  
 21 documents filed with the court, trial, deposition, and hearing transcripts, correspondence, deposition  
 22 and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even  
 23 if such materials contain confidential material.



1 The confidentiality obligations imposed by this agreement shall remain in effect until a  
2 designating party agrees otherwise in writing or a court orders otherwise.

3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

4 Dated: August 31, 2022.

5 Respectfully submitted,

6  
7 **AKW LAW, P.C.**

8 /s/ Ada K. Wong

9 Ada K. Wong, WSBA #45936  
10 Attorneys for Plaintiff  
11 12055 15<sup>th</sup> Ave NE, Suite 200  
12 Seattle, WA 98125  
13 Tel.: (206) 259-1259  
14 Fax: (855) 925-9529  
15 Email: [ada@akw-law.com](mailto:ada@akw-law.com)

16  
17 **LAW OFFICE OF G. BENJAMIN LINDSEY III**

18 /s/ G. Benjamin Lindsey, III

19 G. Benjamin Lindsey III, WSBA #36386  
20 2012 Grade Road, Suite 202  
21 Lake Stevens, WA 98258  
22 Tel: (425) 263-9585  
23 E-Mail: [guslindseyiii@gb13law.com](mailto:guslindseyiii@gb13law.com)  
Attorneys for Defendants

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PURSUANT TO STIPULATION, IT IS SO ORDERED

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law.

DATED: August 31, 2022


  
\_\_\_\_\_  
The Honorable John H. Chun  
United States District Court Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury  
that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United  
States District Court for the Western District of Washington on \_\_\_\_\_ in the case of  
*Mistiann Lapo v. Uniform Factory Outlet L.L.C. d/b/a Uniform Destination, et al.*, Cause No. 2:22-cv-  
01013-JHC. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order  
and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment  
in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or  
item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance  
with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western  
District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if  
such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_